

1 STATE OF GEORGIA
2 COUNTY OF FULTON
3 CITY OF SOUTH FULTON

RES2019-054

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6 A RESOLUTION OF THE CITY OF SOUTH FULTON, GEORGIA, ADDRESSING
7 ROAD CLOSURES AND PRIVATIZATION WITHIN THE CITY, ESTABLISHING A
8 ROAD CLOSURE POLICY AND FOR OTHER LAWFUL PURPOSES

9
10 (Sponsored by Councilperson Gumbs)

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12 WHEREAS, the City of South Fulton ("City") is a municipal corporation duly
13 organized and existing under the laws of the State of Georgia;

14
15 WHEREAS, the Mayor and Council ("City Council") is the duly elected governing
16 authority of the City;

17
18 WHEREAS, the metropolitan Atlanta area suffers from a sparse and poorly
19 interconnected transportation network;

20
21 WHEREAS, massive growth in the region over the last two decades has
22 continued to outpace road construction;

23
24 WHEREAS, an increasing number of neighborhoods have inquired about the
25 possibility of closing a roadway to through traffic;

26
27 WHEREAS, some neighborhoods have expressed a desire to take over the right-
28 of-way from the City, hence privatizing the road so they can install gates or other access
29 control devices;

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31 WHEREAS, in response, Mayor and Council charged the Department of Public
32 Works with developing a uniform policy that would include guidelines and processes for
33 road closures and privatization; and

34
35 WHEREAS, this Resolution will benefit the health and general welfare of the City,
36 its citizens and general public.

37 THE COUNCIL OF THE CITY OF SOUTH FULTON, GEORGIA, HEREBY
38 RESOLVES as follows:

39
40 Section 1: NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby
41 adopts the "City of South Fulton Road Closure and Privatization Policy" attached hereto.

42

43 **Section 2.** It is hereby declared to be the intention of the Mayor and Council that: (a)
44 All sections, paragraphs, sentences, clauses and phrases of this Resolution are or
45 were, upon their enactment, believed by the City Council to be fully valid, enforceable
46 and constitutional.

47 (b) To the greatest extent allowed by law, each and every section, paragraph,
48 sentence, clause or phrase of this Resolution is severable from every other section,
49 paragraph, sentence, clause or phrase of this Resolution. No section, paragraph,
50 sentence, clause or phrase of this Resolution is mutually dependent upon any other
51 section, paragraph, sentence, clause or phrase of this Resolution.

52 (c) In the event that any phrase, clause, sentence, paragraph or section of this
53 Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional or
54 otherwise unenforceable by the valid judgment or decree of any court of competent
55 jurisdiction, it is the express intent of the City Council that such invalidity,
56 unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not
57 render invalid, unconstitutional or otherwise unenforceable any of the remaining
58 phrases, clauses, sentences, paragraphs or sections of the Resolution.

59 **Section 3.** All Resolutions and parts of Resolutions in conflict herewith are hereby
60 expressly repealed.

61 **Section 4.** The effective date of this Resolution shall be the date of adoption unless
62 provided otherwise by the City Charter or state and/or federal law.

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65 THIS RESOLUTION adopted this 12th day of November 2019.

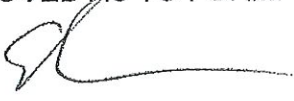
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67 CITY OF SOUTH FULTON, GEORGIA

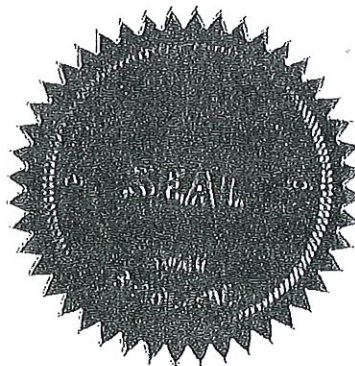
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72 WILLIAM "BILL" EDWARDS, MAYOR

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75 ATTEST:

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79 S. DIANE WHITE, CITY CLERK

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81 APPROVED AS TO FORM:

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83 
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85 EMILIA C. WALKER, CITY ATTORNEY
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The foregoing RESOLUTION No. 2019-054, adopted on November 12, 2019 was offered by Councilmember Gumbs, who moved its approval. The motion was seconded by Councilmember Jackson, and being put to a vote, the result was as follows:

William "Bill" Edwards, Mayor
Mark Baker, Mayor Pro Tem
Catherine Foster Rowell
Carmalitha Lizandra Gumbs
Helen Zenobia Willis
Gertrude Naeema Gilyard
Rosie Jackson
khalid kamau

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City of South Fulton Road Closure & Privatization Policy

Adopted 11-12-2019

1.0 INTRODUCTION

An increasing number of neighborhoods have inquired about the possibility of closing a roadway to through traffic. Some neighborhoods have expressed a desire to take over the right-of-way from the City, hence privatizing the road so they can install gates or other access control devices. In response, Mayor and Council charged the Department of Public Works with developing a uniform policy that would include guidelines and processes for road closures and privatization.

The metropolitan Atlanta area suffers from a sparse and poorly interconnected transportation network. Massive growth in the region over the last two decades has continued to outpace road construction. Commuters on over-capacity collector streets divert along interconnecting local residential roads, adding significant volumes to neighborhood streets. In response, some residents have called for closures to through traffic. Such closures tend to force more traffic along already over-burdened corridors, along with limiting the routing options of the neighborhood residents themselves. Poorly chosen closures serve only to exacerbate an already significant problem.

Implementing a road closure or privatization requires a delicate balance between the desires of the neighborhood residents and the needs of the greater traveling public. Mayor and Council has repeatedly recognized the need for increased interconnectivity in the City transportation network. Proposed and/or approved planning documents, Comprehensive Transportation and land-use plans over the last decade have called for and mandated increased interconnectivity. This policy preserves the repeated desire for interconnectivity while responding to residents' concerns and giving them a voice.

Streets belong to the general as well as the local public; and if the control and general supervision of streets is conferred by the legislature upon the city, the city holds them in trust for the convenience and use of the public at large. It then becomes its duty to keep them in safe and suitable condition for the passage of persons and transportation of commodities. The basic principles of law regarding streets are pronounced in at least two cases, Jones, et al. v. City of Moultrie, et al., 196 Ga. 526 (1943); Accord: Soles v. City of Vidalia, 92 Ga. App. 839 (1955):

A highway is a public way open and free to anyone who has occasion to pass along it on foot or with any kind of vehicle. Id. The streets of a city belong to the public, and are primarily for the use of the public in the ordinary way Id. The primary object of streets is for public passage.

They should be kept open and unobstructed for that purpose...The streets of the city are peculiarly within the police control for the purpose of preserving and protecting their use by the public as thoroughfares. Id.

Road closures and privatization are intrinsically linked. Roads are maintained with public funding and located in City owned right-of-way. As such, the interest of the public good must be weighed when considering the dispensation of any roadway. Privatizing a road can cause problems with the loss of interconnectivity, increased emergency vehicle response times, and school bus routing. Road closures without privatization can also lead to issues of the public good. Some roadways, if closed to through traffic, would serve as little more than City maintained driveways. Conversely, the City should not accept the dedication of right-of-way that will cause an undue maintenance burden. For this reason, we have included in this policy definitive guidelines for City acceptance of dedicated roadways.

1.1 DEFINITIONS

For purposes of this policy, a road closure refers to a publicly owned and maintained roadway that has been partially or completely closed to through traffic. A road closure is typically implemented by the installation of a physical device or barrier designed to prevent vehicular traffic from passing. Closures typically include warning signage and pedestrian access through the barrier. They may include provisions for emergency vehicle access and a vehicular turn-around. The most commonly used type of permanent closure barrier is concrete, or metal bollards installed across a roadway with appropriate signage.

Privatization is the process of the City of South Fulton abandoning or selling the public right-of-way to a private entity if owned in fee. If owned by virtue of dedication, an entity must be established by the adjacent or abutting homeowners so that the privatization of the road will be implemented as set forth hereafter. After privatization, a road becomes a privately-owned thoroughfare which the City neither maintains nor accepts any liability. Any necessary routine or emergency maintenance, such as resurfacing, surface water management, or sinkhole repair, is the responsibility of the owner. The controlling entity may limit access to a private road as it sees fit, subject to City law and policy.

Right-of-way dedication is the opposite of privatization. It is the acceptance of a privately constructed or maintained roadway into the public right-of-way. It may be conveyed either in fee or by easement for road purposes. Once dedicated, the road and land in the dedicated right-of-way become public property to

the extent of the conveyance. The City will thereafter maintain the roadway, performing any improvements or modifications deemed necessary.

1.2 PURPOSE

The purpose of the Road Closure and Privatization Policy is to provide uniform guidelines for evaluation and implementation of citizen requests for road closures, privatizations, and right-of-way dedications. To this end, the City must balance the need of the greater public for increased interconnectivity and transportation alternatives with the safety and quality of life concerns of our residents. The policy outlines the procedures and engineering guidelines for implementing road closures and privatizations. Standardized designs for various closure devices will be developed under this policy to ensure uniformity and safety. Appeals to decisions made under this policy will be adjudicated by the Mayor and Council. Appeals shall be filed with the Director of Public Works and shall follow the processes outlined in this policy.

2.0 ROAD CLOSURE

Before any request for road closure will be considered, a traffic study must be undertaken by the Department of Public Works or a qualified consultant. The results of this study will be analyzed, and the Department of Public Works will make the appropriate recommendations. Staff of the Department of Public Works is available to make presentations and discuss their findings and recommendations with neighborhood associations and community groups. Recommendations are based on engineering and design standards publications such as the American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets (Green Book), the Manual on Uniform Traffic Control Devices (MUTCD), the Transportation Research Board Highway Capacity Manual, and other design standards and regulations. See Section 2.3 for a chart detailing the steps of the implementation process.

2.1 IMPLEMENTATION CONSIDERATIONS

- I. The Department of Public Works will only support a road closure on paved local residential streets, located within the boundaries of the City of South Fulton. Local streets are those classified by the City as primarily used to directly access land parcels. Residential streets are those where the adjacent land use is deemed primarily residential in nature. Gravel roads will not be considered for publicly maintained road closure. Given the considerable annual maintenance cost of such roads, it would be inappropriate to spend public funds on a roadway that would not serve the public good.
- II. The Department of Public Works will only support a road closure if the road in question is part of a neighborhood that connects to at least three different collector roads. In the case of a neighborhood with the requisite multiple connections, Public Works staff will consider the closure of specific access points to redirect traffic flow through the neighborhood. Public Works will not support the closure of a single road that connects two collector roads. For purposes of this policy, a collector road is defined as any road that the Department of Public Works has given a functional classification of collector or higher.
- III. The traffic study must confirm that a traffic-related problem exists before the Department of Public Works will support any closure request:

- Traffic studies performed for evaluation of a requested road closure must include 24-hour vehicular volumes and speeds. If a study is being conducted by a qualified consultant, please contact the Department of Public Works Traffic Engineer for specific study criteria.
- If a significant speeding problem exists, the neighborhood will be referred to the City's Traffic Calming Program, and road closure will not be supported until after a traffic calming project is implemented and evaluated for effectiveness, as determined by the City of South Fulton Traffic Engineer. Traffic Calming is effective in reducing speeds and volumes on residential roadways and can address the immediate safety concerns caused by speeding traffic more effectively than a road closure.
- For excessive volume, a problem exists when collected vehicular volumes exceed four times the expected trip generation for the surrounding land uses, as calculated using the Trip Generation Handbook.
- For pedestrian and other safety related problems, confirmation will be made based on accident reports, inadequate roadway geometry (such as poor sight distance), and other safety parameters.
- The Department of Public Works Traffic Engineer may recommend support for a closure based on a combination of the factors listed above, and on accepted engineering practice.

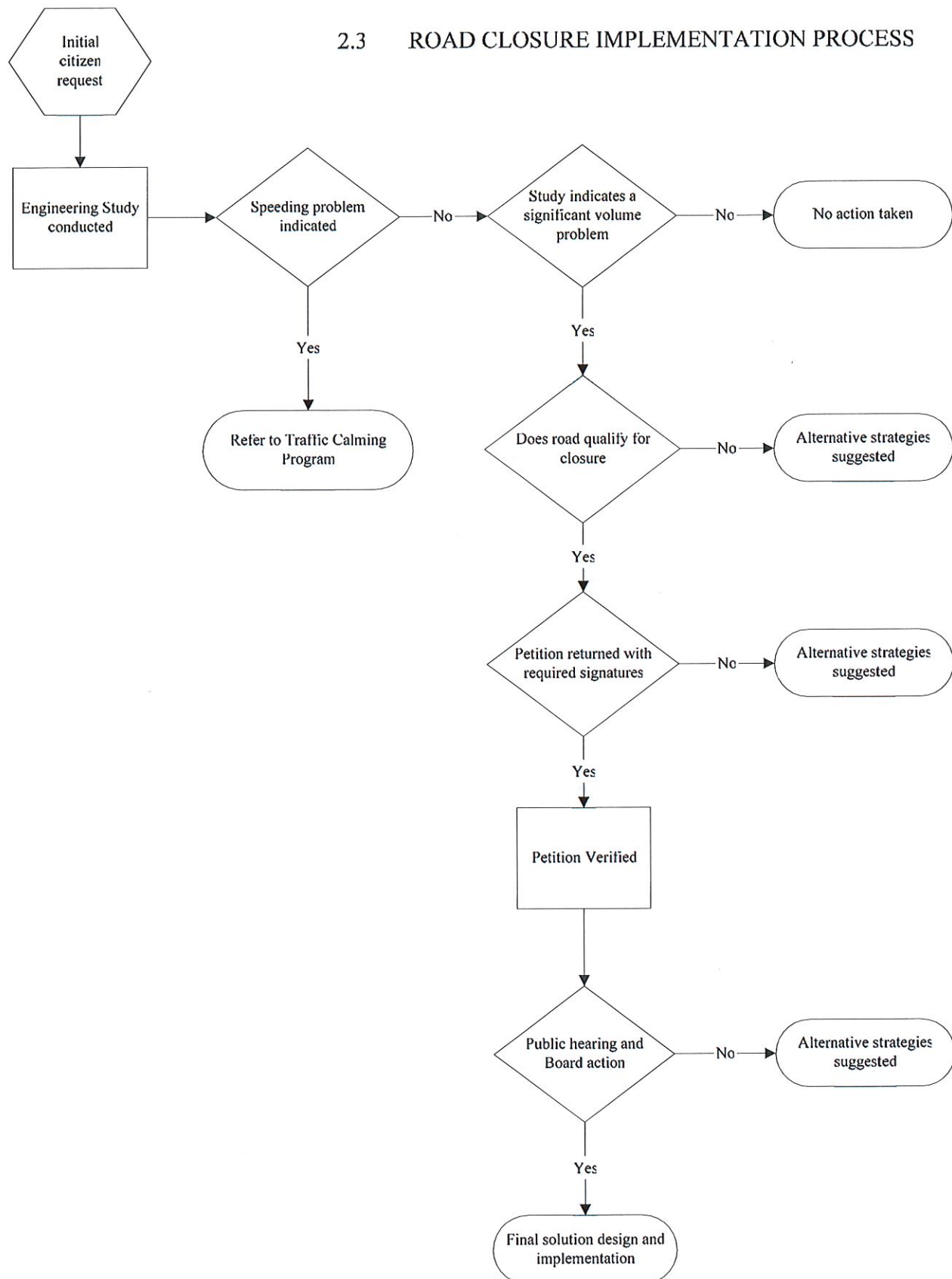
IV. The City requires that there be unanimous support from the community for implementing road closures:

- For the implementation of a road closure, a formal petition must be submitted to the City, showing that 100% of the property owners in the neighborhood, as defined by City of South Fulton Traffic Engineer and along the affected roadway affirm their support for the closure. See Section 5.0
- If the required percentages cannot be obtained, the Department of Public Works Traffic Engineer may recommend the road closure based on traffic studies and accepted engineering practice.

V. All road closures must conform to any programmed transportation capital projects and any approved land use plans. Additionally, all closures must conform to any approved regional or state mobility plans. Approval by the Director of Public Works and the Director of Community Development and Regulatory Affairs (CDRA) are required to indicate conformity.

- VI. Public Works will consult with emergency service providers, Fulton County Board of Education, and the Postmaster before approval of any road closure, so that said services will be accommodated and not impaired to render their required performances.
- VII. Once all criteria have been met, the Department of Public Works will present the completed petitions to Mayor and Council for action. A public hearing will be held before Mayor and Council for each petition. Public Works will advertise any public hearing(s) through the use of on-site informational signage as well as by press release prior to the hearing(s). Following the public hearing, Mayor and Council will take action on the petition.
- VIII. The design of any construction or devices used to facility the road closure requires the approval of the Department of Public Works Traffic Engineer.
- IX. Once a road closure is implemented, the Department of Public Works reserves the right to move, modify or remove the closure for operational or safety reasons at any time:
- A neighborhood association may request the removal of a road closure in its community. A formal petition will be required showing that 100% of the property owners in the neighborhood and along the affected roadway affirm their support for the removal of the closure. As with installation, removal of traffic calming devices requires action by Mayor and Council. See Section 5.0
 - The City of South Fulton may deny a request to remove a road closure based on operational and safety reasons.

2.3 ROAD CLOSURE IMPLEMENTATION PROCESS



3.0 ROAD PRIVATIZATION

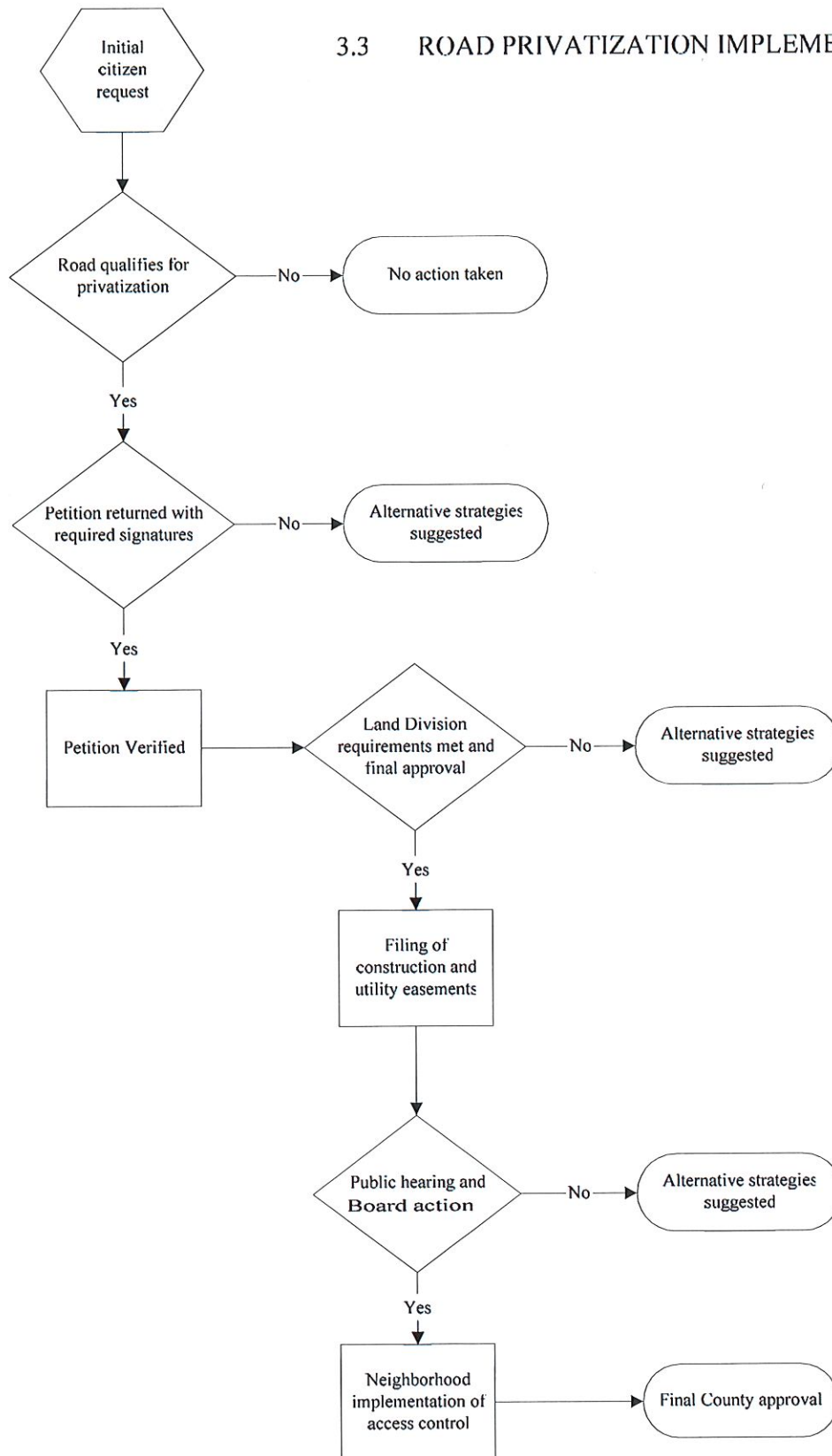
Privatizing a road means it will no longer be available for public use and access, ultimately lowering the overall interconnectivity of the City's transportation network. Not only is the immediate connection lost, but any future possibility of expansion or upgrade to the road, as part of a larger network, is lost. Additionally, if any such future expansion was mandated, the City would be required to repurchase the right-of-way it previously owned. As such, only road meeting specific criteria will be allowed to privatize. See Section 3.3 for a chart detailing the steps of the implementation process.

3.1 IMPLEMENTATION CONSIDERATIONS

- I. The Department of Public Works will only support privatization of local residential streets, located within its jurisdiction. Local streets are those classified by the City as primarily used to directly access land parcels. Residential streets are those where the adjacent land use is deemed primarily residential in nature.
- II. The Department of Public Works will only support privatization for a neighborhood or road that does not connect to two or more different collector roads. For purposes of this policy, a collector road is defined as any road that the Department of Public Works has given a functional classification of collector or higher.
- III. The City requires that there be unanimous support from the community for implementing a road privatization:
 - For the implementation of a privatization, a formal petition must be submitted to the City, showing that 100% of the property owners in the neighborhood, as defined by the City of South Fulton Traffic Engineer; and along the affected roadway(s) affirm their support for the privatization. See Section 5.0
- IV. All privatizations must conform to any programmed transportation capital projects and any approved land use plans. Additionally, all privatizations must conform to any approved regional or state mobility plans. Approval by the Director of Public Works and the Director of Community Development and Regulatory Affairs (CDRA) are required to indicate conformity.

- V. Public Works will consult with emergency service providers, Fulton County Board of Education, and the Postmaster before approval of privatization, and provisions made for their performances.
- VI. Residents with frontage along a road to be privatized may be required to purchase the right-of-way from the City. Any privatization of a public roadway must meet all requirements of the Land Division of the General Services Department. Approval by the Land Administrator is required for all privatizations.
- VII. The controlling entity for the privatized road will give the City permanent utility and construction easements for the entirety of the existing right-of-way at no cost as a condition of privatization.
- VIII. Once all criteria have been met, the Department of Public Works will present the completed petitions to Mayor and Council for action. A public hearing will be held before Mayor and Council for each petition. Public Works will advertise any public hearing(s) through the use of on-site informational signage as well as press releases prior to the hearing(s). Following the public hearing, Mayor and Council will take action on the petition.
- IX. Upon approval of a road privatization, the controlling entity will file a revised subdivision plat indicating the new dispensation of the property. Any expenses or fees incurred in the filing will be the sole responsibility of the controlling entity.
- X. Any access control, such as a gate, that the residents of the road wish to install must conform in design and construction to all relevant City standards, regulations, and processes. All access controls must conform to City standards as if the road or neighborhood was newly constructed. Recent privatization will not be accepted as a justification for any exemptions or variances to these standards.

3.3 ROAD PRIVATIZATION IMPLEMENTATION PROCESS



4.0 DEDICATION OF RIGHT-OF-WAY

The opposite of privatization, the dedication of right-of-way is the process by which a formerly private roadway is accepted as public right-of-way. Dedicated roadways can help the City to expand the existing roadway network and provide previously unusable connections. Unfortunately, dedication can also saddle the City with an undue maintenance burden caused by substandard construction. The City will only accept the burden of roadways that expand our transportation network and are built to acceptable standards. Said conveyance may be made either in fee or by easement.

4.1 IMPLEMENTATION CONSIDERATIONS

- I. The Department of Public Works will only support dedication of paved streets that connect two or more different collector roads. For purposes of this policy, a collector road is defined as any road that the Department of Public Works has given a functional classification of collector or higher.
- II. The City will not accept a portion of a neighborhood street for dedication. If a neighborhood is to dedicate its roadways, they must dedicate all existing roadways. If a single street is to dedicate right-of-way, the entire street must be dedicated.
- III. The City requires that there be unanimous support from the community for the dedication of right-of-way:
 - For the dedication of right-of-way, a formal petition must be submitted to the City, showing that 100% of the property owners in the neighborhood and along the affected roadway(s) affirm their support for the closure. See Section 5.0
- IV. Applicants for dedication must hire a qualified contractor to perform core samples at 100-foot intervals along the centerline of all effected roadways. The resulting analysis of the samples must be submitted to the Department of Public Works for review. Only roadways that can demonstrate an appropriate sectional construction will be accepted.
- V. Private roads typically have concrete aprons at their entrance to indicate their status as private. Any existing concrete apron must be removed and replaced with an appropriate asphalt section.

- VI. All driveway aprons along the streets to be dedicated must conform to City standards. Any asphalt driveway aprons must be replaced by an appropriate concrete apron.
- VII. A minimum of 10 feet of right-of-way from the back of curb must be dedicated to the City of South Fulton for all affected roadways. All utility boxes, hydrants, poles, or other utility-related structures must fall within the dedicated right-of-way. This may require more right-of-way than the minimum 10 feet. Additionally, no structures, or portions thereof, may be located in the newly dedicated right-of-way. Structures would include, but are not limited to, buildings, signs, or walls. Applicant must satisfy the City of South Fulton that good title is being conveyed.
- VIII. All signs located in the newly dedicated right-of-way must conform to City standards as set forth in the “Sign Installation in New Subdivision” policy.
- IX. If an irrigation system would be located in the newly dedicated right-of-way, the applicant must file for a utility permit to operate it within the right-of-way. The applicant must provide an inspection report regarding the condition of the irrigation system to the City as part to the utility permit process. The applicant must also perform any repairs to the roadway, shoulder, or drainage system caused by failures or breaks in an existing irrigation system. If the utility permit is approved, the applicant must file an indemnification agreement with the City regarding its operation. If the utility permit is denied, all portions of the irrigation system must be removed from the right-of-way before dedication will be accepted. This provision applies equally to irrigation systems owned by a single property owner along the affected roadway as it does to a communal operating entity, such as a homeowners’ association, that would operate a neighborhood-wide irrigation system.
- X. All features of the roadway and right-of-way must conform to City standards. This includes, but is not limited to, curb, gutter, catch basins, and sidewalk. If there is not currently sidewalk along the affected streets, sidewalk must be constructed on both sides of the street. Inspections will include a drainage assessment and all deficiencies must be corrected prior to dedication.
- XI. All traffic calming devices in the affected roadway must conform to City standards. The City will not maintain existing traffic calming devices or textured pavement treatments. The neighborhood will be responsible for removing any existing traffic calming devices and pavement

treatments before its roads can be resurfaced. Please see the City of South Fulton Traffic Calming Program document for more information.

- XII. Any on-street parking must be parallel. If any angled parking exists on the affected roadways, it must be eradicated and replaced with parallel bays or removed altogether.
- XIII. All construction, maintenance, and inspection requirements (Section 4.1, Items IV-XII) must be approved by the Director of Public Works to indicate conformity to City standards. City standard details can be obtained through the Department of Community Development and Regulatory Affairs (CDRA).
- XIV. Once all criteria have been met, the Department of Public Works will present the completed petitions to Mayor and Council for action. A public hearing will be held before Mayor and Council for each petition. Following the public hearing, Mayor and Council will take action on the petition.
- XV. Upon approval of right-of-way dedication, the applicant will file a revised subdivision plat indicating the new dispensation of the property and the new right-of-way location. Any expenses or fees incurred in the filing will be the sole responsibility of the applicant.

5.0 PETITION FOR ROAD CLOSURES, PRIVATIZATIONS, AND DEDICATIONS

As required in this policy, a petition shall be submitted to the City of South Fulton Department of Public Works to illustrate the favorable opinion of the affected property owners. Examples of properly formatted petitions are included in Appendix A. All the property owners in the subdivision or along the roadway should be contacted and given an opportunity to sign this petition, indicating their opinion concerning the installation of the traffic calming device. Any abstention or indication other than a “yes” will be considered a “no.”

A spouse’s signature will not be acceptable if he/she is not the legal owner. If both husband and wife are joint legal owners, both signatures are required. A “Mr. and Mrs.” signature is not acceptable. All owners must sign individually, including owners of undeveloped lots, provide legal evidence of good title and authority to convey. Renting tenants are not an acceptable substitute for the legal homeowner. The percentage of support will be calculated, based on individual lots where the owners sign affirmatively, divided by the total number of lots in the plotted subdivision, units, or defined service area. Each lot counts as only one lot regardless of the number of owners signing. 100% of the homeowners in the neighborhood, as defined by City of South Fulton Traffic Engineer or along the affected roadway must vote in support of the proposed action before the petition may be presented to Mayor and Council. Where a neighborhood has a homeowners’ association or other legal mechanism allowing a group less than the previously stated required percentages to represent their position on matters such as these, this mechanism may replace the petition process as approved by the City Land Administrator in consultation with the Office of the City Attorney. Appropriate indemnification for maintenance and associated expenses shall be provided for.

The completed petition must be returned to the Department of Public Works where it will be checked against tax records and land lot maps to ensure that it meets all requirements. Petitions that meet the requirements will be presented to Mayor and Council for action. A public hearing will be held before Mayor and Council. Following the public hearing, Mayor and Council will take action on the petition, and the necessary modifications made to the Public Records.

Appendix A

Sample Petitions

Two sample petitions follow. The first is an example of a single sheet per property design which could be included in a Homeowner's Association newsletter or passes out by volunteers. The second is a petition form that includes multiple signatures and could be carried around by volunteers or kept in a central location. One petition is formatted specifically for road closure, while the other is formatted for privatization. This is simply for illustrative purposes. Either form, or a reasonable variation, as approved by the Fire Chief, is acceptable.

Regardless of exact format, all petitions must have certain features. Most importantly, the property owner(s) must clearly indicate they are in favor of the closure, privatization or dedication of the neighborhood streets. The street address of each property should be indicated, along with printed name(s) of the owner. Please note that all listed property owners must sign the petition or a 'no' vote will be recorded for the property. Submitted petitions should include a cover letter from the HOA Board, neighborhood president, or other responsible party attesting that all signatures are correct and valid to the best of their knowledge.

City of South Fulton Department of Public Works
Transportation Division
C/o Traffic Calming Program
5440 Fulton Industrial Blvd, SW, Atlanta, Georgia 30336
(470) 809-7453

PETITION FOR ROAD CLOSURE

I, the undersigned, being the owner of real property located at

in the City of South Fulton, do hereby petition for the closure of [NAME OF ROAD] to through traffic, for purposes of improving the safety of the neighborhood streets for all users of the roadways.

I do hereby pledge and consent to the installation of devices deemed necessary to facilitate the closure of the roadway adjacent to my property to through traffic that are constructed within the public right-of-way and conform to the design and safety standards for such devices as determined by the City of South Fulton Department of Public Works.

Print Name (First, Last)

Signature

Date

Print Name (First, Last)

Signature

Date

PETITION FOR ROAD PRIVATIZATION

We, the undersigned, do hereby record our preference for the privatization of the roadway(s) adjacent to our property and in our neighborhood. We understand and affirm that we will be financially and legally liable for all upkeep, maintenance, and operations of the roadway(s) if privatization is approved by the Mayor and Council.

| Printed Name | Signature | Indication: | | Property Street Address |
|--------------|-----------|-------------|----|-------------------------|
| | | YES | NO | |
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Neighborhood: _____

Date: _____